

REMARKS

Status of the Claims

Claims 1-3, 8-13, 19, 20, 29-31 and 39 are pending in the application.

Claims 1-3, 8-13, 19, 20, 29-31 and 39 have been rejected.

The Official Action dated January 29, 2008 was made final.

Claim Rejections Under 35 U.S.C. § 112, first paragraph

Claims 1-3, 8-13, 19, 20, 29-31 and 39 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. The Office asserts that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In Applicants' earlier amendment, the specification was amended to refer to SEQ ID NO:1 as a representative example of the sequence of CDX1. The Official Action states on page 3 that:

SEQ ID NO:1 disclosed in the instant specification does not match any art-known sequence although the specification reasonably communicates that applicants have not discovered new CDX1 sequence.

The Official Action further notes on page 3 that a search comparing SEQ ID NO:1 in GenEmbl databases revealed a non-identical sequence for CDX1 which contained 5 mismatches relative to the CDX1 sequence set forth in the specification as SEQ ID NO:1. Presumably based upon these search results, it is concluded that "SEQ ID NO:1 disclosed in the instant specification does not match any art-known sequence".

Attached hereto are two exhibits, Exhibit A and Exhibit B, which are results from a Genbank search using the terms "human CDX1". Exhibit A is the full length sequence submitted November 2000. Applicants respectfully note that this published CDX1 sequence contains the same mismatches to sequences in SEQ ID NO:1 as those in the mismatched sequences in the search conducted by the Office. Exhibit B is the partial length sequence submitted March 2000. The sequence in Exhibit B, contains the same sequences as those in

SEQ ID NO:1 which correspond to the mismatched sequences in the search conducted by the Office. Applicants note that the search uncovered other published sequences that disclosed partial sequences encoding CDX1 which likewise had the same sequences as those in SEQ ID NO:1. In each sequence, the coding region is the same length.

Applicants respectfully urge that the assertion that SEQ ID NO:1 disclosed in the instant specification does not match any art-known sequence is incorrect. One skilled in the art would recognize that applicants were in possession of the claimed invention at the time the application was filed.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

Conclusion

Claims 1-3, 8-13, 19, 20, 29-31 and 39 are in condition for allowance. An early Notice of Allowance is therefore earnestly solicited. Applicants invite the Examiner to contact the undersigned attorney at 610.640.7855 to clarify any unresolved issues raised by this response.

The Commissioner is hereby authorized to charge any debit or credit any overpayment to Deposit Account No. 50-0436.

Respectfully submitted,

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Attachments:

Exhibit A
Exhibit B